

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF MISSISSIPPI**

IN RE:

CHAPTER 7

HARRIS CLAIBORNE FRAZIER

CASE NO. 08-03051-EE

**TRAVELERS CASUALTY AND SURETY
COMPANY OF AMERICA**

PLAINTIFF

VS.

ADVERSARY NO. 09-00087-EE

HARRIS CLAIBORNE FRAZIER

DEFENDANT

FINAL DEFAULT JUDGMENT

This cause comes before the Court on the motion of Travelers Casualty and Surety Company of America (“Travelers”) for a default judgment against Harris Claiborne Frazier (“Claiborne Frazier”) for his failure to appear at the court ordered pretrial conference [Dkt. # __]. The Court finds that the motion is well taken and should be granted and hereby FINDS AS FOLLOWS:

1. This Court has subject matter jurisdiction over this matter;
2. This Court has personal jurisdiction over the parties;
3. Venue is proper in this Court;
4. On April 27, 2010, the Court entered an Order Permitting Withdrawal of Defendant’s Counsel and, if Mr. Frazier elected to proceed pro se, provided that all filings should be served on Mr. Frazier at the following address:

Harris Claiborne Frazier
770 Harbor Blvd
Destin, FL 32541.

See Dt. Ent. No. 43.

**EXHIBIT
A**

5. On November 17, 2010, this Court entered its “Notice Scheduling Pretrial Conference” (the “Notice”) in the above referenced adversary proceeding ordering all parties to appear for a pretrial conference on Tuesday, January 4, 2011, at 10:00 A.M., at the United States Bankruptcy Court in Jackson. *See* Dt. Ent No. 47.

6. The Notice further states: “Should an attorney for a party or an unrepresented party fail to appear or to comply with the directions set out herein . . . a Judgment or other appropriate order may be entered and sanctions imposed.” *See id.*

7. The Notice was duly served on Mr. Frazier at his address at the time of the filing of his bankruptcy and the Destin, Florida address in the Order above. *Id.*

8. Rule 16(f) of the Federal Rules of Civil Procedure, incorporated by Rule 7016 of the Federal Rules of Bankruptcy Procedure, provides that “the court may issue any just orders, including those authorized by Rule 37(b)(2)(A)(ii)-(vii) . . . if a party . . . fails to appear at a scheduling or other pretrial conference . . .” *See Fed. R. Civ. P. 16 & Bankruptcy Rule 7016.* Rule 37(b)(2)(A)(vi) provides the Court the authority to “render[] a default judgment against the disobedient party.” *See Fed. R. Civ. P. 37 & Bankruptcy Rule 7037.*

9. The Notice was duly served on all parties. *See* Dt. Ent. No. 47.

10. Mr. Frazier, however, failed or refused to appear at the pretrial conference.

11. Accordingly, a default judgment should be entered against Mr. Frazier pursuant to Rule 7016 of the Federal Rules of Bankruptcy Procedure and this Court’s Notice, providing Travelers with a non-dischargeable judgment against Mr. Frazier in the amount of \$6,405,585.21.

THEREFORE, IT IS ORDERED as follows:

- a. Default Judgment is hereby entered in favor of Travelers against Harris Claiborne Frazier in the amount of \$6,405,585.21;
- b. Travelers' Default Judgment of \$6,405,585.21 against Harris Claiborne Frazer is non-dischargeable under 11 U.S.C. § 523 and is fully enforceable against Harris Claiborne Frazer (notwithstanding the entry of a discharge order in this or any future bankruptcy proceeding);
- c. Harris Claiborne Frazier shall pay future statutory interest pursuant to 28 U.S.C. § 1961(a) on the amount above from and after the date of entry of this Default Judgment until all monies owed under this Default Judgment are paid in full;
- d. The entry of this Default Judgment and the finding of non-dischargeability is irrevocably binding regardless of any conversions in the bankruptcy chapters, and is expressly binding against any and all future bankruptcy filings by Harris Claiborne Frazier;
- e. The Court shall retain jurisdiction over the enforcement of the terms and conditions of this Order.

SO ORDERED

PREPARED and SUBMITTED BY:

/s/ Jack Crawford

John A. Crawford, Jr. (MB# 10346)

Paul M. Ellis (MB # 102259)

BUTLER, SNOW, O'MARA, STEVENS & CANNADA, PLLC

P.O. Box 6010

Ridgeland, Mississippi 39158-6010

(P) 601-948-5711

(F) 601-985-4500

(E) jack.crawford@butlersnow.com

(E) paul.ellis@butlersnow.com

Jackson 5978159v1